

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF OHIO

3 EASTERN DIVISION

4
5 KRYSTAL MOSHOLDER, et al.,) CASE NO. 5:18cv1325

6 Plaintiffs,) JUDGE SARA LIOI

7 versus)

8 LOWE'S COMPANIES, INC.,) **DEPOSITION OF**

9 et al.,) **RAYMOND PETRO**

10 Defendants.)

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12
13 Deposition of **RAYMOND PETRO**, a Witness herein,
14 called by the Plaintiffs for Cross-Examination pursuant
15 to the Ohio Rules of Civil Procedure, taken before me,
16 the undersigned, Anika W. Patrick, a Registered Merit
17 Reporter, Certified Realtime Reporter and Notary Public
18 in and for the State of Ohio, at the offices of Roetzel
19 & Andress, 222 South Main Street, Suite 400, Akron,
20 Ohio, on Friday, December 20, 2019, at 1:08 p.m.

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I N D E XEXAMINATION BYPAGE

Mr. Eoff

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PLAINTIFF'S EXHIBITS MARKED

None

DEFENDANT'S EXHIBITS MARKED

None

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1 WHEREUPON,

2 RAYMOND PETRO,

3 after being first duly sworn, as hereinafter
4 certified, testified as follows:

5 CROSS-EXAMINATION

6 BY MR. EOFF:

7 Q. Okay. Ray, my name is Craig Eoff. We just met a
8 few moments ago before the start of the
9 deposition. I represent the Plaintiffs in this
10 matter, Danny and Krystal Mosholder. Could you
11 please state your name and spell your last name
12 for the record?

13 A. Raymond Petro, P-e-t-r-o.

14 Q. Okay. And, Raymond -- do you care if I call you
15 Ray?

16 A. Ray is preferable.

17 Q. Okay. That's fine. So, Ray, let me ask you,
18 where do you currently reside?

19 A. I live in Cuyahoga Falls.

20 Q. What's your address?

21 A. 2606 Owaisa Road, O-w-a-i-s-a, Road, in the Falls
22 44221.

23 Q. Okay. Thank you. So are you currently employed?

24 A. At Lowe's, yes.

25 Q. And you work for Lowe's?

1 A. Yes.

2 Q. Do you have a specific store location that you
3 work for?

4 A. No. I cover multiple locations. So I work for
5 District 848, so --

6 Q. Okay. So let's back up a second and start with,
7 what do you do for Lowe's? What's your job title?

8 A. Well, they just changed it again, so my official
9 title as of today is the senior asset protection
10 manager.

11 Q. And what does the senior asset protection manager
12 do? Give me a description of your duties.

13 A. It's trifold. We work with the internal and
14 external shrink and investigations involved in
15 such. We also work with the operations side as
16 far as inventory management and helping the stores
17 make their, you know, financial numbers. So a lot
18 of what we do is helping to make the stores
19 profitable from a shrink and loss standpoint. And
20 then the last part of our job is safety. So we're
21 in charge of safety partnership with the stores to
22 help develop safety cultures within the stores,
23 prevent injuries.

24 Q. Okay. So let's take each piece of that for a
25 second. You're talking about shrinkage and loss

1 prevention. Obviously we're talking about people
2 that are trying to steal from the store and
3 shoplift, correct?

4 A. Uh-huh. Correct.

5 Q. So what types of things do you get involved in
6 there that help Lowe's prevent those things?

7 A. A lot of what we do is communication and
8 identification. Once we identify it, you know, we
9 communicate it, train the associates to help
10 prevent it. All that we do when it comes to an
11 external piece like that when it's a shoplifter is
12 based off customer service. We try to encourage
13 the customers or the employees to customer service
14 the people to limit the ability to steal or to
15 make it so difficult that they know that we would
16 know so that they would just prefer to leave and
17 go somewhere else. That's the essence of what we
18 do with that.

19 Q. So are you saying that -- this is interesting. I
20 think I might have just learned something. Are
21 you saying that one of the reasons that when
22 you're walking through the store as a customer
23 that you have people coming up to you and asking
24 you if they want help -- if you need help or if
25 you're looking for something is that they're

1 trying to maintain that contact and make sure
2 people understand there's a presence around?

3 A. The most important part is the customer service
4 presence, to let actual customers understand that
5 we're there for them, we're there to help them and
6 meet whatever needs they would have. But if that
7 person happens to be a shoplifter, they also are
8 aware that we're there to help meet all their
9 needs, which then would limit their ability for
10 that quiet corner in the store where they can
11 shoplift without --

12 Q. Sure. Right. Somebody's around?

13 A. Right.

14 Q. Yeah, that's interesting. Okay. So I'm assuming
15 then as part of that, though, there's obviously
16 security cameras?

17 A. Correct.

18 Q. Are you directly involved in monitoring those
19 cameras or do you train people that do that?

20 A. I am directly responsible for those cameras and
21 making sure that, you know, they're up to date,
22 they're working, all that.

23 Q. Okay.

24 A. We do train the store associates to use them as
25 needed because there are times when they would

1 also need to view them. But most of the camera
2 work is done by myself and my peers.

3 Q. And when you say, "most of the camera work," are
4 we talking about the installation of the cameras?

5 A. No, no. We're talking just the use of them for
6 our business purposes.

7 Q. Who handles the installation of the cameras?

8 A. It usually is a third-party vendor. Right now we
9 use Johnson Controls, which is also Sensormatic,
10 Tyco. And I can give you eight more different
11 parent company names. But Sensormatic is the
12 original guys that I've dealt with for the longest
13 time, and there was a different company before
14 them.

15 Q. So they'll come up and set up the cameras, I'm
16 assuming, where Lowe's directs them to put them?

17 A. Correct. That's done at a corporate level. We
18 don't have that input at the store levels. They
19 pick a camera package where they feel it best
20 suits that store. And the camera packages
21 generally are determined by the revenue of the
22 store, the location of the store, like the
23 high-theft nature of the store versus, you know,
24 the lower-theft nature. And so they pick that
25 camera package and they install it. And every

1 store is different. I would like to say that
2 every store was exactly the same, and they're not.

3 Q. Okay.

4 A. So they are very different. Some stores have many
5 more cameras than others, and others, you know,
6 have very few.

7 Q. So the neighborhood, if you will, and the quality
8 of the neighborhood is going to impact how many
9 cameras are in a given store location?

10 A. Right. They use demographics for that. Like the
11 corporate level pulls that stuff and looks at what
12 the crime level for that demographic area is going
13 in, because you never know. You could open up a
14 store and you think it would be a low-theft store
15 in a very, you know, maybe rural area with low
16 shrink and it ends up being the exact opposite.
17 So sometimes they have to do that after the fact.
18 And they will make those decisions and change
19 stuff down the line, potentially.

20 Q. So does someone in your position get any input on
21 that? Do you have an opportunity to opine?

22 A. I do. I do send my opinions up to see if they
23 maybe would change. Generally, I don't have much
24 of an impact, though.

25 Q. Okay. Once the camera system, whatever package

1 they decide to install, is put in place, there's
2 obviously some place in each of those stores where
3 someone can sit in front of monitors and see
4 what's on those cameras, right?

5 A. Correct.

6 Q. Okay. Are those folks people that are under your
7 purview?

8 A. Well, most of them are me. I mean, that would
9 be -- you know, my level would do that.

10 Q. Okay.

11 A. And then, like I said, we would train store
12 associates on occasions to use them as needed,
13 because sometimes they use them for employee
14 watching, making sure that the employees are being
15 productive and things like that, as well. Not
16 just, you know, straight shoplifting and the other
17 thing.

18 Q. Sure. And I would assume you're also looking for
19 employees who might be stealing?

20 A. We do use them for that.

21 Q. That's just a reality of a --

22 A. Every register we have almost has two to three
23 cameras on it for that specific reason.

24 Q. Okay. Okay. How about -- so when we're looking
25 at wherever this room is, wherever -- let me go

1 back. Let's talk about the Brimfield store --

2 A. The Brimfield store, yeah.

3 Q. -- that we're talking about in this lawsuit. And
4 I'll just refer to that store as the Brimfield
5 store. In fact, I think I have the address of 218
6 Nicholas Way, Kent, Ohio; is that correct?

7 A. That's correct.

8 Q. And that's the store where the dog bite incident
9 of March 15, 2018 involving Krystal Mosholder --
10 to your knowledge, that's the store it took place
11 in?

12 A. Yes.

13 Q. So when I say "the Brimfield store," that's the
14 store I'm talking about.

15 A. Okay.

16 Q. And you know what? This is a good time -- I
17 completely forgot. I jumped ahead. There are a
18 few things about taking a deposition that you
19 probably should know that I should have covered at
20 the very beginning and I forgot. So let me do
21 that real quick. First and foremost, if you need
22 to take a break, let me know.

23 A. Okay.

24 Q. I've got no intention here to turn this into an
25 inquisition. If you need a break, the only thing

1 I ask is if I have a question pending, that you
2 answer my question before we break. Okay?

3 A. Okay.

4 Q. The second thing is that as you can see, the court
5 reporter is taking down everything that you and I
6 say. You're doing a great job of responding to me
7 verbally. Make sure you continue to do that. She
8 can't take down nods of the head and things of
9 that nature. And obviously, that doesn't make a
10 good record. Okay?

11 And then this is something I'm terrible
12 at. We'll have to work together on this. We've
13 got to try not to talk over each other because
14 it's hard to take down two people talking at the
15 same time. So I'll do the best I can to let you
16 finish talking before I ask my next question, and
17 you let me finish asking my question.

18 A. No problem.

19 Q. In the event that your counsel objects, obviously
20 let him, you know, say what he needs to say before
21 you start talking. And then last is that in the
22 event that you answer my question, I am going to
23 assume that you understood it.

24 A. Okay.

25 Q. Okay. Fair enough? So if I ask a question that

1 you don't understand, make sure that you say so.

2 A. Ask for clarification.

3 Q. Yeah. And I'll try to help you, because sometimes
4 I ask bad questions. I mean, that happens, too.

5 Okay. So back to what we were talking
6 about. At the Brimfield store, where in the store
7 is the place located where these monitors are?

8 A. The AP office is what it's called, is located at
9 the front of the building, right where the
10 customer service area is. There is a set of
11 offices and it's in those offices right there.

12 Q. Okay. So I know exactly -- I can see that setup
13 because like many other people, I've been in a
14 Lowe's a thousand times. So is there always
15 somebody in that office?

16 A. No, there's not.

17 Q. Okay. So there is not someone watching those
18 cameras or watching those video screens at all
19 times the store is open?

20 A. No, there's not.

21 Q. Okay. Why is that?

22 A. Our position is not really to do the camera
23 watching all the time like that. A lot of what we
24 do is review video. I do a lot more work with
25 recorded video than I do with live video because

1 our job a lot of times is going backwards and
2 doing research and reviewing those cameras.

3 And that store at the time of this
4 incident, the alleged incident, is what we call a
5 non-LP or non-staffed store. So the revenue level
6 of that store wasn't high enough to support the
7 payment or the, you know, the, I guess the
8 employment of a loss prevention officer. So it
9 was what we called a non-LP store at that time.

10 And so I had a couple other people that
11 I -- my peers that I worked with, we would go to
12 that store and, you know, as issues would arise
13 and handle them.

14 Q. So when you were talking about, I think you
15 mentioned that you oversee what you called, I
16 thought you referred to it as District 848?

17 A. Right. I -- we have -- my position now, we break
18 a district up into pods. I have the northern pod
19 of the market, so I have the north of District 848
20 and I have two peers that cover the southwest and
21 southeast of it.

22 Q. So the stores that you cover, that northern pod,
23 if you will, what are the other stores? I'm
24 assuming that Brimfield is part of that?

25 A. Brimfield is part of that.

1 Q. Okay.

2 A. And then I also have the Stow location.

3 Q. Okay.

4 A. I have the Green location located on Arlington
5 Road in Akron.

6 Q. Okay. I'm in there all the time. I'll say hi to
7 you.

8 A. And the Fairlawn store located over right off the
9 highway there and 186, what is it, Massillon,
10 Akron, Cleveland Road, I believe, something like
11 that.

12 Q. Yes, I know exactly where you're talking about.

13 A. And then the last location I have is in Wadsworth.

14 Q. Okay. So if I counted right, that's five stores?

15 A. Five stores.

16 Q. Okay. So talk to me a little bit about how
17 you -- how do you divide your time amongst five
18 stores?

19 A. In general, we try to visit every store once a
20 week. Right now. At that time the separation of
21 the duties was much different than it is today.
22 So at that time that store was a once every two to
23 three week visit.

24 Q. The Brimfield store?

25 A. The Brimfield store at that time. We would go to

1 that store, you know, once every two to three
2 weeks. We would go in, meet with the store
3 manager, ask what their business needs were and do
4 our best to support them and come back again every
5 two to three weeks.

6 Q. Okay. So at this point in time I'm getting the
7 impression that that's changed, too. You try to
8 go to each of those stores every week?

9 A. Correct. They did change the way that the
10 business is run now and they created a district
11 level position called senior asset protection,
12 which is my title now.

13 Q. Sure.

14 A. And we actually get an opportunity to go to stores
15 more than we did with the old setup just because
16 of the way our team was set up. The other parts
17 of the company, every store was staffed. So they
18 had -- it was a much different format, whereas
19 those markets maybe had 15, 18 loss prevention
20 officers and there was somebody in every building
21 because they had a higher revenue tier, higher
22 theft and they required them. Our market never
23 had somebody in every store.

24 Q. Okay.

25 A. So actually, when we had to change, we're actually

1 going to stores more often than we were prior,
2 whereas before the change we only went to the
3 stores once every two to three weeks.

4 Q. Okay. So when you talk about the higher-revenue,
5 higher-theft stores, it seemed to probably get
6 more attention than maybe the other stores?

7 A. Exactly.

8 Q. Do those two things go hand-in-hand? Are the
9 higher-revenue stores also the higher-theft
10 stores, typically? I think it would be the
11 inverse relationship.

12 A. No. What the higher revenue indicates is more
13 product, more personnel, which is operationally
14 the opportunities that we look at for internal
15 loss from operations and processes. So the reason
16 that we staff the higher volume stores is so that
17 there's somebody there helping manage all the
18 processes from receiving, stocking, selling to
19 prevent loss.

20 High shrink is the other end of the
21 thing. We are there for high external shrinks.
22 We have somebody there to prevent large numbers of
23 shoplifting incidents.

24 Q. Sure.

25 A. So there are high-theft and high-revenue stores,

1 but they're not -- they don't go hand-in-hand.

2 Q. They don't go hand-in-hand. So in other words,
3 you only have to be one of those two things --

4 A. Correct.

5 Q. -- and you get the additional attention?

6 A. Correct.

7 Q. Okay. Fair enough. That makes sense to me. So
8 give me an example in the area -- and this has
9 really got very little to do with your deposition
10 and more just to get me to understand it. Give me
11 an example in the area of a store that is a
12 high-revenue store.

13 A. The closest high revenue for us would be New
14 Philadelphia.

15 Q. Do you know how they determine that? Is there
16 like a number that you become high revenue?

17 MR. RESETAR: I'm going to object to a
18 number only because that's proprietary.

19 MR. EOFF: How about we don't get the
20 actual number, but --

21 MR. RESETAR: Yeah, yeah.

22 Q. But I'm assuming that you have to reach a certain
23 sales volume. Is that a fair way to ask it?

24 A. Sales volume is fair.

25 Q. So you reach a certain sales volume before you

1 become a high-revenue store?

2 A. (Witness nodding head up and down.)

3 Q. Okay. Do you -- I mean, so -- you could get on
4 that list without necessarily a profit-and-loss
5 function, but the volume of your sales will get
6 you on that list?

7 A. There's tiers. The company has predetermined
8 tiers.

9 Q. Okay.

10 A. And once you reach one of the certain tiers, then
11 you would qualify, you know, for a loss prevention
12 officer at that time.

13 Q. Okay.

14 A. And, you know, like I said, they would go
15 hand-in-hand. If you reach a certain tier for
16 theft, you would also. And they, you know, they
17 scale.

18 Q. So it's really a formulaic equation. I mean,
19 someone evaluates data, and when you reach a
20 certain point, that extra body goes in the store?

21 A. That's fair.

22 Q. Okay. Okay. So give me an example in the area of
23 a high-theft location.

24 A. Bedford Heights.

25 Q. Bedford Heights, okay. Okay. So understanding

1 those as examples -- and it's two areas that at
2 least I know, so I get it -- where does Brimfield
3 fall in that? Are they -- is Brimfield -- I
4 assume that Brimfield is not either a high-revenue
5 or a high-loss store, correct?

6 A. They're a middle revenue.

7 Q. Okay.

8 A. What Lowe's would be considered a -- you know, of
9 the tiers, they're in the middle. And
10 historically they've been at the very low end on
11 the theft scale, which is why, you know, they're
12 really close. They're a store that was -- is very
13 close at that time that could have earned, you
14 know, before the structure change, could have very
15 easily earned itself to have a loss prevention
16 person in it. They were getting to that point.

17 Q. From a theft standpoint?

18 A. No, more from a --

19 Q. Sales standpoint?

20 A. -- sales standpoint.

21 Q. Just out of my own curiosity, what about Green?

22 A. Green is also -- at that time was a non-staffed
23 location.

24 Q. Okay.

25 A. And they're a much higher shrink store on that

1 side, but they're a lower revenue.

2 Q. Okay. There are some -- that's some surprising
3 tidbits there.

4 MR. RESETAR: They're going to start
5 staffing that store now that you know that.

6 MR. EOFF: Well, you know, I mean, as a
7 resident of Green, I just always assumed we
8 were above-board, quality people and didn't
9 have those problems.

10 A. Well, if you know the location.

11 Q. I do, yeah.

12 A. Unfortunately for the -- when it comes to high
13 shrink, the Wal-Mart store is less than a mile
14 away.

15 Q. Doesn't help the cause.

16 A. One of the highest shrinking stores in the state
17 of Ohio.

18 Q. Was it really? Well, you know, it's interesting
19 because, you know, that store sits in the City of
20 Green, but, I mean, you can hit a golf ball to the
21 City of Akron from where you're at there. You
22 know what I mean? You're very close. You're
23 almost out of Green at that point. Anyway, okay.

24 So we covered that those video monitors
25 are not being looked at at all times. You

1 indicated that you spent a fair amount of your
2 time going back and looking at tape from the
3 cameras.

4 A. Yes.

5 Q. Is that something that you do regularly just to
6 look for things or is that something that you do
7 because you've got to report or some type of an
8 incident and you're going back specifically to
9 look for something?

10 A. It's a combination of both.

11 Q. Okay.

12 A. It is a combination. It just depends on what our
13 agendas are or our plans are. A lot of times
14 reports or incidents do dictate what we do. And
15 sometimes, you know, we're looking to validate
16 processes and things and we uncover stuff. We
17 didn't have an agenda going in, we were just
18 looking at video to potentially look for
19 something.

20 Q. You're analyzing?

21 A. Right. So we do both.

22 Q. So in an instance like a dog bite situation like
23 we're here to talk about today, you would have
24 gotten a report of my client's dog bite incident
25 and that's what caused you to go back and look

1 through the video to pull the video that we
2 received in this case, correct?

3 A. I was actually requested to do so after the store
4 was notified. They obviously forwarded it up to
5 our claims division and then I got an e-mail
6 asking me to go pull that video for them.

7 Q. Okay.

8 A. And that's what I did.

9 Q. Okay. So how much time in a given week do you
10 think typically, and I'm just looking for an
11 average here, do you think you spend looking at
12 video?

13 A. It -- it depends what our -- what we're working
14 on. There's days where I may not look at video at
15 all.

16 Q. Okay.

17 A. And then there's other days where I might look at
18 video for eight to ten hours.

19 Q. Okay. So if we take that time that you're looking
20 at video, how much of that in terms of
21 percentages, is it half or something along those
22 lines of how much of that you're looking backwards
23 for some specific incident or reason that you've
24 been requested versus analyzing what's going on in
25 the store?

1 A. Are you asking for, like, a percentage, would you
2 say?

3 Q. Yeah, if you could give me an idea.

4 A. Again, it just depends on what the current, you
5 know --

6 Q. Sure.

7 A. I guess what the current atmosphere or environment
8 of where we're at. There's times when shoplifting
9 becomes a very big part of what we're doing. Like
10 in this season right now, shoplifting has
11 become -- so a lot of what I've been doing video
12 watching has been for shoplifting incidents going
13 backwards.

14 Q. Is that typically more what you're looking for
15 when you're going back, looking for incidents that
16 you know are specific?

17 A. Yeah, generally when we're looking for specific
18 incidents, it's usually related to a shoplifting,
19 an internal or potential safety. I mean,
20 generally.

21 Q. You could be looking for accidents that took place
22 in the store, someone got injured?

23 A. Yes, we do do that.

24 Q. Okay. You would characterize that as
25 being -- taking less of your time or there's fewer

1 of those incidents than when you're looking for
2 theft?

3 A. Hopefully so. That's our goal, is that we don't
4 have that many safety incidents that require
5 review, yes.

6 Q. Sure. I assume you look at a dog bite situation
7 as a safety incident?

8 A. I would, yes.

9 Q. Okay. So when you're doing that, looking at your
10 safety incidents and thinking about the dog bites,
11 how often do you find yourself going back to look
12 for incidents involving animals in the store in
13 Brimfield?

14 A. This was the first and only one that I've had.

15 Q. Okay. And how long would you have been the
16 person -- how long has it been since you would
17 have been the person responsible to go back and
18 look at the video for that particular location?

19 A. We looked at it right after the notification. We
20 submitted the video and then, to be honest, I
21 don't think I reviewed it for quite some time.

22 MR. RESETAR: I'm trying to help you out.

23 I think I know what you're asking. I don't
24 think he understands the question.

25 Q. Yeah, let me ask again. So I'm just trying to

1 figure out, so how long have you been employed by
2 Lowe's?

3 A. Almost ten years. About nine and a half right
4 now.

5 Q. Prior to your current position, what was your
6 position?

7 A. I was a store manager at a different retailer.

8 Q. And you were -- where were you at?

9 A. Aaron's Leasing.

10 Q. Okay. You, since the time that you left Aaron's
11 Leasing and came to Lowe's, have you always been
12 in a position, whether the title changed or not,
13 but you've been essentially in the same position
14 in terms of what you've described to me today?

15 A. Yes, from day one I've been nothing at Lowe's
16 other than loss prevention, asset protection,
17 safety, operation, yeah.

18 Q. Okay. Perfect. So how long during that ten-year
19 period of time has it been since you would have
20 been responsible to review incident footage for
21 the Brimfield location?

22 A. The first time I was officially, officially
23 assigned Brimfield was probably five years ago.
24 And then as I train -- I'm a trainer, so I do a
25 lot of the training. So as we would bring new

1 loss prevention people on board, I would give up
2 the Brimfield store to allow them to have
3 experience covering a second location. So of my
4 ten years, I've been involved sporadically with
5 the store, but I would say that I have probably
6 been directly responsible for that store of that
7 ten, probably at least three of it.

8 Q. Okay. So in the last three years you are
9 confident in telling me that the only dog bite
10 incident you've reviewed for the Brimfield
11 location is the dog bite incident that we're
12 talking about today?

13 A. To the best of my knowledge, that's the only one
14 that I remember being.

15 Q. Okay. You don't have any knowledge of any other
16 incidents?

17 A. No, not that I know of.

18 Q. Did -- sorry. Go ahead.

19 A. Yeah, only if the -- only if the stores required
20 me to have to review it, but I have not been --

21 Q. So I guess it's theoretically possible that there
22 was another dog bite incident but you weren't
23 asked to review it? Is that possible?

24 A. I would say potentially. It would be very small
25 because generally, they do review all that with

1 me.

2 Q. Okay. So let's go there for a second. Who
3 else -- is there anyone else that could be charged
4 with the responsibility --

5 A. The store manager.

6 Q. The store manager. So between you and the store
7 manager, as I'm talking about the Brimfield
8 location in the last three years, there wouldn't
9 be anybody else that you would think would be
10 charged with the responsibility to go back and
11 look at videos of dog bite incidents other than
12 the two of you?

13 A. Yeah, they may ask an assistant manager to look at
14 it, but ultimately it would fall to the store
15 manager as the ultimate responsibility.

16 Q. Okay. Thank you. I appreciate that. I'm glad we
17 walked through that, because that is very helpful.

18 Okay. So let's go to -- let's talk a
19 little bit about the video that you secured in
20 relation to the incident that we're talking about
21 that took place on March 15th, 2018. It is my
22 understanding that you took a series of video
23 clips and provided them to your counsel,
24 Mr. Resetar, who is with us here today, of my
25 client, Krystal Mosholder, walking through the

1 store that day?

2 A. Correct.

3 Q. You also took a series of video clips with a
4 gentleman who had a dog that fit the description
5 of the dog that we believe was involved in the dog
6 bite incident, and you put all those together as
7 well, correct?

8 A. Correct. I was asked to complete from entering
9 the parking lot to leaving the parking lot and
10 everything in between. So I was asked to get
11 every clip that was on camera for each of
12 those -- each of those folks.

13 Q. And I'm assuming when you say "on camera," you're
14 talking about any security camera that that
15 Brimfield location has, correct?

16 A. Right. Correct.

17 Q. And is it fair to say that for both of the
18 individuals whom you collected those video clips
19 for off of those security cameras, that you
20 provided every one of those clips off of every
21 single security camera that they existed on to
22 Mr. Resetar?

23 A. Correct.

24 MR. EOFF: And, Mr. Resetar, I'm assuming
25 that I've been provided all of those video

1 clips?

2 MR. RESETAR: Craig, I've provided you
3 everything that I've been given, video clips
4 and otherwise.

5 MR. EOFF: Okay. Thank you. I
6 appreciate that, sir.

7 Q. Okay. So let's talk a little bit about -- one of
8 the things that I noticed -- and I'm going to walk
9 you through a clip here in a minute. We're going
10 to talk about some things, because I'm going to
11 move into point-of-sale stuff and I want you to
12 try to help me as much as you can. I understand
13 you understand the point-of-sale system to a
14 certain degree as well.

15 Let's talk about camera setup again. We
16 were talking about there's different packages
17 depending on the store and its needs, it gets
18 different packages. If I understood you saying
19 what you were talking about the Brimfield
20 location, it sits somewhere in the middle of the
21 spectrum of the good and the bad. So describe the
22 camera package that it might get versus New
23 Philadelphia or Bedford Heights.

24 A. It's a much lighter package, much less camera
25 presence throughout the building. So the -- they

1 generally cover most of the exits.

2 Q. Okay.

3 A. And, you know, the register areas, and
4 that's -- that's about the extent of the Brimfield
5 store. It's not as extensive as, let's say, you
6 know, a Bedford Heights.

7 Q. Sure. So if we looked at, like, a Bedford Heights
8 or a New Philadelphia -- you said New Philadelphia
9 was a high sales store?

10 A. Higher sales store, yes.

11 Q. So from a square-footage standpoint, is that New
12 Philadelphia store larger than the Brimfield
13 store?

14 A. Actually, it might be the smallest one in our
15 district.

16 Q. Is it really?

17 A. Yeah.

18 Q. That's interesting. So that doesn't really drive
19 the size of the box that gets put up?

20 A. Right.

21 Q. It's the volume of the inventory, probably, that
22 gets in and out of the store is what we're really
23 talking about?

24 A. Right. The turns and the sales, yeah.

25 Q. So the size of the store doesn't impact that

1 camera package?

2 A. Not generally, no.

3 Q. Okay.

4 A. Not the square footage part of it. That doesn't
5 come into play, I don't believe.

6 Q. How many cameras, how many security cameras are in
7 the Brimfield location?

8 A. I would have to pull it up to actually count them,
9 but best guess, the camera packages that I see
10 range anywhere from mid 20s to high 40s, and I
11 would say that it falls probably towards the lower
12 end of that spectrum.

13 Q. Okay. And you actually just kind of jumped ahead
14 to where I was going. I was trying to get a feel
15 for the difference. So someplace like New
16 Philadelphia and Bedford Heights might be getting
17 those 40-something camera packages?

18 A. And Bedford, I believe, because they have the
19 newer systems that we carry. Not even the systems
20 in the stores down this way, they might even have
21 more than that.

22 Q. Okay.

23 A. They easily could have 60 cameras.

24 Q. Oh, wow. Okay. Okay. And you would put it, you
25 said, somewhere in the middle. So, I mean, I'm

1 not making -- I'm not holding you to this, I'm
2 just trying to get a feel, somewhere 25, 30
3 cameras is probably what's in that Brimfield
4 location?

5 A. I'd say that's pretty fair. And like I said, I
6 can pull an exact number if you'd like.

7 Q. Okay. I mean, obviously there's going to be
8 cameras in places that were not germane to
9 you -- your project of pulling video of these two
10 individuals walking through the store on March
11 15th because there's going to be video cameras in
12 places where those folks would not have gone?

13 A. Correct. Like the dock where our trucks park.

14 Q. Right.

15 A. The receiving department, things like that, yes.

16 Q. All right. That makes sense to me. Okay. So
17 fair enough. So the incident in question, based
18 on my client's testimony -- I'm just going to
19 represent that to you.

20 A. Right.

21 Q. -- is that she got bit by this dog while she was
22 in the spray paint aisle. Okay. I've watched the
23 video of both my client and of course the
24 gentleman with the dog, who we do not know the
25 name of, by the way. Any chance you know the name

1 of the gentleman who had the dog in the store that
2 day?

3 A. No. I did extensive research to try to provide
4 you with that and unfortunately, I was not able to
5 do so.

6 Q. And I'm going to ask you about that in a second,
7 because I think you were probably trying to work
8 through that point-of-sale information for me.
9 For what it's worth as we're sitting here today, I
10 do want to extend to you that I appreciate the
11 time you put into that because obviously, it's
12 important that I try to figure out who this guy
13 is. And I don't want to make you feel bad, I
14 think you were my last chance at figuring that
15 out, but I appreciate you taking the time to do
16 it.

17 That being said, when I went through all
18 these video clips, I don't see a video at all of
19 the, and again, I'm using it generically, the
20 spray paint aisle, which is where my client said
21 the incident happened. Is there a camera that
22 covers the spray paint aisle at the Brimfield
23 location?

24 A. There is not.

25 Q. Can you tell me why that is?

1 A. It being that it was a corporate decision, I
2 cannot tell you the exact reason, probably not. I
3 can give you my best guess.

4 Q. Please do.

5 A. If that's okay.

6 MR. RESETAR: Don't guess. Base it upon
7 your experience with Lowe's as loss
8 prevention.

9 A. Based on experience, the paint aisle, the spray
10 paint aisles specifically, are not higher theft
11 aisles.

12 Q. Okay.

13 A. So they generally would not, you know, want to
14 include those in the video package because
15 everything comes down to need and the need just is
16 not there for it.

17 Q. So is that because of the value of a can of spray
18 paint or is that because people typically don't
19 try to steal spray paint?

20 A. More towards people typically don't try to steal
21 spray paint.

22 Q. It's funny to me, because if you think about
23 trying to go to Lowe's and walk out with
24 something, of all the things in the store that you
25 could walk out with, I would think spray paint

1 would be one of the easier things to steal.

2 MR. RESETAR: Can we go off the record
3 for one second?

4 MR. EOFF: Go off the record.

5 (Discussion off the record.)

6 MR. EOFF: Let's go back on the record.

7 BY MR. EOFF:

8 Q. So we were talking about the placement of the
9 cameras in the store and, you know, you had
10 confirmed that there wasn't a camera in that spray
11 paint aisle. Okay. I'm assuming, obviously, that
12 the entries, the entry and exits of the stores are
13 covered?

14 A. Correct.

15 Q. We've got -- from the video I've seen, I know that
16 the cash register areas are covered.

17 A. Correct.

18 Q. It seems like, you know, and I'm using my
19 experience as someone who's been a customer in
20 Lowe's stores, okay, you know, you come into this
21 store and there is kind of a general flow through
22 the front of the store and you've got the aisles.
23 They're -- you know, if you go in the front of the
24 store to your left, there's another collection of
25 merchandise, but there's also kind of a larger

1 aisleway that flows to the back of the store that
2 direction and there's kind of one -- well, there
3 really isn't because on the right side of the
4 store you get into lumber and all that kind of
5 stuff.

6 A. Depending on the stores. Sometimes they're
7 flipped.

8 Q. So from what I saw on the videos that you provided
9 for me, Ray, I saw that those main aisles up
10 front, that main drag through the front of the
11 store down that left side of the store, whatnot,
12 that seems to be covered?

13 A. Correct.

14 Q. Okay. And again, you would say that that's just
15 strategic because of the items that would be in
16 those areas or that those being high-traffic areas
17 so they -- I mean, is it because it's a
18 high-traffic area and creates more likelihood for
19 problems?

20 A. Because it is a higher customer flow, it makes
21 more sense to have the cameras because you'll see
22 the most traffic through there for customers. So
23 in a store like Brimfield, that is pretty much
24 most of the camera package. It is enters, exits,
25 the main aisle, the cash registers and tool world.

1 Q. And again, you're doing great work here because
2 you were right where I was headed with this about
3 the Brimfield store. So the concentration of the
4 cameras in the Brimfield store are in those areas
5 we were just talking about?

6 A. Yes.

7 MR. EOFF: Okay. All right. So, Nick,
8 if you don't mind, let's find the video of
9 the dog owner as he's actually in the
10 checkout aisle and he's running that card or
11 whatever he's using.

12 MR. RESETAR: Let me play it to make sure
13 and then you can ask questions.

14 MR. EOFF: That's fine.

15 MR. RESETAR: I'll cue it up. I think
16 this is it. Yeah, this is it. That's him.

17 MR. EOFF: And that's clip 12, isn't it?

18 MR. RESETAR: Yes.

19 Q. Okay. So, Ray, what we've got up on --

20 MR. RESETAR: Do you want me to play it?

21 MR. EOFF: No, just hang on a second.

22 Q. So what we've got up on the -- we've got a video
23 screen here in the conference room where we're
24 taking the deposition. And it's a large TV,
25 actually. That TV has video clip 12 of the dog

1 owner that you provided us and it's going to show
2 this gentleman going through the checkout.

3 MR. EOFF: So, Nick, go ahead and play it
4 from where it's at right now.

5 MR. RESETAR: And just for the record,
6 Craig, to make it clean, this is Exhibit 1 to
7 Ms. Mosholder's deposition.

8 MR. EOFF: Correct.

9 MR. RESETAR: Ready?

10 MR. EOFF: Yes.

11 MR. RESETAR: Tell me if you want me to
12 stop.

13 MR. EOFF: I will. All right. Go ahead
14 and stop it real quick, Nick.

15 Q. Okay. So when I have him run this again, Ray,
16 what I want you to pay very close attention to is
17 the things that the gentleman with the dog does in
18 terms of that point-of-sale interface that he's
19 dealing with. We've all used these things where
20 you use your card. You either swipe it or you put
21 your chip side in, whatever the case may be. I'm
22 assuming that piece of equipment that I'm talking
23 about there has a name. What is that thing?

24 A. We just call them a card reader.

25 Q. Card reader? Okay. Your card reader in this

1 Brimfield location that we're looking at at cash
2 register number 11 on the date of March 15th,
3 2018, do you know whether or not on that date that
4 card reader was chip-enabled as well?

5 A. I believe, to the best of my knowledge, at that
6 point we were chip-enabled.

7 Q. Okay. So it would take a swipe or a chip?

8 A. Correct.

9 Q. Okay. Explain to me what the difference is in
10 terms of would it take either/or? If my card has
11 a magnetic strip and a chip, will it take both?

12 A. I'm not 100 percent sure at the time when this
13 happened, but I know when the chip readers first
14 became part of using the credit cards, there was a
15 time where the bank, in the information, would
16 determine whether they had to chip it or they had
17 to swipe it because it was -- I think it
18 was -- like there was like a growing process with
19 it. Not just at Lowe's, but as a retailer, anyone
20 using those cards. So I know for a while there
21 were people that had a chip on their card and they
22 could swipe it and it would register as a credit
23 transaction.

24 Q. Sure.

25 A. But as the, I guess, the softwares and the

1 programs had developed, now if you have a chip, it
2 will not allow you to swipe it and use it as a
3 credit card.

4 Q. And that's -- I mean, you know, just as a consumer
5 in the world, my understanding is the chip is a
6 more secure card than using the magnetic strip,
7 right?

8 A. Correct.

9 Q. So this has developed in a way now where my card
10 is enabled with a chip, you're telling me it won't
11 work unless I use the chip? And that's because of
12 the security protection?

13 A. That it is for the consumer's protection, yes.

14 Q. So is the information that's contained in the chip
15 and the magnetic strip the same?

16 A. I'm not 100 percent sure of the actual mechanics
17 of that, to be honest with you.

18 Q. Okay.

19 A. I'm not sure how they design their cards that way.
20 I'm not sure if there's different information on
21 the chip than there is on the thing. But we do
22 deal with a lot of stolen and fraudulent credit
23 cards, and I know that they can program the strip.
24 But as to the best of my knowledge, I don't think
25 anyone's ever been able to figure out how to

1 program the chips yet.

2 Q. Okay.

3 A. But I'm sure --

4 Q. Does debit card versus credit card make a
5 difference?

6 A. Generally a true credit card, you can still use it
7 as like a -- you can type in the pin, as far as I
8 understand, but in general, if it's -- if you're
9 using it as a debit, you would swipe it, key in
10 your pin code and then proceed with the
11 transaction. And then it would register as a
12 debit sale. If you insert it now, it becomes a
13 credit card transaction.

14 And a lot of times, depending on the
15 bank, I still believe there are certain
16 restrictions. Some banks you are not required to
17 do anything up to, like, maybe \$50 where other
18 banks maybe you have to enter a code after 100 or
19 25.

20 Q. Okay.

21 A. So I -- to my knowledge, I don't know what the
22 banks --

23 Q. So if you insert a debit card with the chip, in
24 theory you may not have to use your pin, it's all
25 going to be driven by whatever the requirements of

1 the bank that issued the card?

2 A. To the best of my knowledge, that's the way I
3 understand it.

4 Q. Okay. Fair enough. So -- okay. So what kind of
5 information, when I walk through my friendly
6 neighborhood Lowe's and I buy something and I use
7 my credit card or my debit card, what information
8 about that transaction does Lowe's compile or
9 keep?

10 A. Well, they would obviously keep the credit card
11 number that was used. Associates are not
12 allowed -- that's privileged information now.
13 Back in the day credit card numbers being stored
14 was very common, but because of privacy and
15 security now, there are -- there are no credit
16 card numbers kept at store level.

17 Q. Okay.

18 A. Like they cannot see those or view those in any
19 way, whether on our electronics or any of our
20 paperwork that prints out. Everything prints out
21 as Xs except for the last four.

22 Q. What about names?

23 A. In the credit card files that we print every day
24 they do not keep any names. They just have that
25 number, the invoice and the totals and the

1 reporting.

2 Q. Okay. So, I mean, obviously when I go through the
3 store and I buy something, I get a receipt.

4 A. Correct.

5 Q. That receipt's going to have the date on it; it's
6 going to have what I bought; it's going to have
7 something on it that's going to indicate how I
8 paid, whether I paid by cash or by one of my
9 cards, correct?

10 A. Correct.

11 Q. All of that stuff is going to be there, right?

12 A. Yeah, it would be on your receipt.

13 Q. What else is going to be on that receipt?

14 A. It depends. A lot of times there will be a
15 message from the store manager, the address of the
16 store, you know, invoice numbers. You know,
17 unique transaction numbers are on there. There's
18 a variety of information, not just for the
19 customer's perspective, but for Lowe's that we can
20 use to help them, like we conduct a return later.

21 Q. So let's say that -- I was just going to go there
22 with the return. So let's say I come back to the
23 store. And, you know, I bought too many, you
24 know, of whatever I bought. I just need to return
25 one of them, whatever the case may be. As I do

1 that and I bring my receipt up to customer
2 service, typically speaking, my experience has
3 been that they want to repay me in the same manner
4 that I paid Lowe's.

5 A. Correct.

6 Q. So if I paid cash, I'm going to get cash back. If
7 I use my debit card, they want to put it back on
8 my debit card, vice versa, correct?

9 A. Generally debit cards go back to cash.

10 Q. Oh, they go back to cash?

11 A. Uh-huh.

12 Q. So only when you use a credit card do you -- that
13 return goes back to the credit card?

14 A. Correct.

15 Q. So talk to me about how that works for a second.
16 If -- well, you said they're not storing the
17 credit card information at the local store.

18 A. As far as where we can visibly see those numbers,
19 correct.

20 Q. Okay. So the information exists, it's in Lowe's
21 system, but an associate can't see it,
22 necessarily?

23 A. Correct.

24 Q. Okay. How does that -- I mean, how does that
25 work? Where is that information being stored?

1 A. I'm not the IT expert, not -- you know, I'm not
2 sure if it's a local retention or if there is a
3 server retention or if it's corporate retention.
4 That, I don't know for sure.

5 Q. It's somewhere in the infamous cloud is what
6 you're telling me?

7 A. We'll go with that. If you come in to do a return
8 and we scan the receipt -- because usually on the
9 receipt there's a bar code that we can scan that
10 will bring up that information in our system.
11 While the associates cannot see it when that
12 return is conducted, the system will recognize the
13 credit card used and send that money directly back
14 to that credit card.

15 Q. Okay. So when we get back to this video in a
16 minute, and we're going to watch this gentleman
17 with a dog check out, he's going to -- I want you
18 to notice, he's going to swipe some type of a
19 card.

20 A. Right.

21 Q. Okay. If that were a credit card or a debit card,
22 would Lowe's be able to tell me who used that
23 card, whose name was on that card?

24 A. When they use that card, if there's a name
25 assigned to it, because sometimes the credit card

1 companies, again, just put customer, so it would
2 come up -- and that's in our electronic journal.
3 So our electronic journal, you could pull it up,
4 and again, you can't see the credit card number,
5 but it would say, like, thank you, Ray Petro. It
6 would be in our digital system that the associates
7 can see the name. And because our return policy
8 is a 90-day return policy, they make sure that
9 that information is available for that 90-day
10 period.

11 MR. EOFF: Okay. Nick, let's go ahead
12 and roll the video.

13 MR. RESETAR: Ready?

14 MR. EOFF: Yeah.

15 Q. All right. You see that card in his left hand,
16 Ray?

17 A. Uh-huh. So he swipes.

18 Q. You know what a My Lowe's card is?

19 A. Yes.

20 Q. Okay. Do you see him use that at all here?

21 A. Usually she would have already taken that
22 information prior to the swipe.

23 Q. And I'll be honest with you, I didn't see it. I
24 have one and I've used one, so I get the idea. I
25 know what it is. I never saw it happen.

- 1 MR. EOFF: Go ahead and stop the video.
- 2 Q. Okay. So we just saw the entire transaction. You
- 3 never saw him use this thing that we call a My
- 4 Lowe's card, correct?
- 5 A. I did not, no.
- 6 Q. Okay. I didn't, either. Is there any way to use
- 7 your My Lowe's number without it being scanned?
- 8 A. You can ask them to type in your phone number and
- 9 they can pull it up that way.
- 10 Q. Okay. Did you see anything there in the video,
- 11 and we can replay it if you need to, Ray, did you
- 12 see anything that would indicate that that took
- 13 place here?
- 14 A. I did not. I mean, I would re-watch it just to
- 15 validate, but generally you would see the cashier
- 16 at the register typing, because it takes a few
- 17 screens to get through it. I didn't see anything
- 18 that extensive.
- 19 Q. I've actually had them look mine up that way, so I
- 20 understand exactly what you're talking about. So,
- 21 I mean, as we get ready to cue this back up, let's
- 22 watch for that. And then while we're waiting and
- 23 while you're watching it, if you don't mind, can
- 24 you tell me what kind of information is collected
- 25 from that My Lowe's scan? When somebody uses that

1 My Lowe's card, what's Lowe's collecting
2 information and data-wise there?

3 A. It's a customer assistance tool. It's similar to,
4 like, a Giant Eagle card, things like that. What
5 it does is it allows them to store their sales
6 information --

7 Q. Right.

8 A. -- for later retention so you don't have to keep
9 the physical copy of the receipt. So it's a bonus
10 to help people without keeping stacks of receipts.
11 But there's more features to it. Like you can go
12 and keep your paint colors.

13 Q. Yeah.

14 A. You can keep room measurements. You can do things
15 to help with your shopping experience at Lowe's.
16 You can set a reminder, let's say, for your air
17 filter for your furnace and you'll get an e-mail
18 from your My Lowe's that says, hey, it's time to
19 change the air filter.

20 Q. I just put it in my phone.

21 A. So there are a lot of features, you know, to use
22 for that and that's -- that will -- it's basically
23 a customer-driven program. They can use it for
24 what they want and do all those features or they
25 can scan it to just, you know, use it to keep

1 receipts.

2 MR. EOFF: Okay. So let's roll this
3 again, Nick.

4 Q. And, Ray, with your expertise, I want you to watch
5 closely here and tell me if your cashier does
6 anything that would indicate to you that he
7 provided his phone number for this My Lowe's card
8 look-up.

9 MR. RESETAR: Ready?

10 MR. EOFF: Yes, sir.

11 A. To me that looks like she, after scanning the
12 item, she hit total and there wasn't -- there
13 wasn't much more involved in that, because what
14 she would have had to do to do that, she did not
15 take that kind of time.

16 Q. Okay. So from your view, you think it's unlikely
17 from what you're seeing here that he used the My
18 Lowe's card as part of his transaction?

19 A. I would say it's very unlikely.

20 Q. So based on some conversation that you and I had
21 before we got started with the deposition -- and
22 to be clear for the purposes of the record,
23 Mr. Resetar was present when we were having that
24 conversation -- you had done some work to try to
25 use the point-of-sale information to help us

1 identify who this gentleman in this video is with
2 this dog; is that correct?

3 A. Correct.

4 Q. And tell me about -- well, let's start with, is
5 the result of your research that you are able to
6 tell me the name of this gentleman with this dog?

7 A. Unfortunately, I was not able to obtain the name.

8 Q. Okay. Explain to me what you looked at and what
9 you did to try to figure that out.

10 A. Well, based on the video, I had hoped it was a
11 credit card, but it very easily could have been a
12 gift card, which we wouldn't have had anything,
13 because that would have been the same type of
14 swipe. So under the assumption that that was a
15 credit card used and swiped, that electronic
16 journal would have had his name.

17 Q. Sure.

18 A. So I was researching to try to gather that
19 information. But much like I said, a lot of our
20 information storage needs are based on our return
21 program, and since this was in March 2018, I did
22 not have anything locally. So I reached out to
23 our corporate level teams, our records retention
24 to see if they could help me. I was asking for a
25 specific date. I was asking for a specific

1 register. Then when they were unable to comply, I
2 asked them to just send me everything they had on
3 that date for the store and I would do my best to
4 sort through it.

5 Q. Okay.

6 A. But the result was the same. They no longer had
7 that information from March of 2018.

8 Q. Okay. So ultimately we're not sure whether or not
9 that guy used a credit card or a gift card. We
10 don't know the answer to any of that?

11 A. I cannot answer that question, no.

12 Q. Okay. All right. There was some indication from
13 a previous witness in this case that this
14 gentleman might have been in the store other
15 times. Have you ever seen him yourself?

16 A. I have not, no.

17 Q. Okay. Have you talked to anybody, maybe any of
18 your other fellow employees that know who this guy
19 is or have talked to him or seen him in the store
20 at other times?

21 A. To the best of my knowledge, the only person that
22 may have known that was the young lady you spoke
23 with already, Stacy.

24 Q. Stacy Williams.

25 A. And if she did not have the name, then I am -- to

1 the best of my knowledge, that was our best
2 chance.

3 Q. Okay. You indicated -- you indicated to me
4 earlier that you do some of the safety training?

5 A. Quite a bit of it.

6 Q. So when we talk about safety training, we talked
7 about dog bites and things like that of those
8 types of incidents being inside the realm of
9 safety. Do you provide any training to Lowe's
10 employees about the Lowe's pet policy?

11 A. Yeah, we do.

12 Q. Okay. Can you walk me through that? First of
13 all, in your words, what is Lowe's pet policy?

14 MR. RESETAR: Can I just interject?

15 MR. EOFF: Sure.

16 MR. RESETAR: At the time of the
17 incident?

18 MR. EOFF: At the time of the incident.

19 Q. At the time of the incident, to the best of your
20 knowledge, in your words, what was Lowe's pet
21 policy?

22 A. To the best of my knowledge we would accept an
23 animal or a service animal into the building that
24 was well-behaved and on a leash, and that the
25 responsibility to keep that animal, you know,

1 safe, you know, for the people around it was the
2 ultimate responsibility of the owner of that.

3 Q. So does that pet have to be a safety animal?

4 A. No.

5 Q. Oh, can anybody bring a dog?

6 A. No, it can be a pet. It doesn't have to be a
7 service animal.

8 Q. Okay. When you are in the Brimfield location, do
9 you frequently see dogs in the store?

10 A. In every store I see lots of animals, yes.

11 Q. So when you provide training to the Lowe's
12 employees about the pet policy, what is it that
13 you cover? Talk to me as if I'm one of those
14 employees and what you would want me to know.

15 A. Generally we ask them to respect the owner and ask
16 for permission before they would want to pet or
17 interact with an animal.

18 Q. Okay.

19 A. And then to use common sense and not, like,
20 approach an animal from behind or spook an animal
21 in those regards. Just a general
22 common-sense-type training, because our associates
23 love the animals and they want to interact with
24 them. And so we caution them, you know, because
25 you don't want to surprise the animal, but always

1 get the owner's permission is pretty much the
2 extent of what we ask.

3 Q. Okay. What type of training are employees
4 provided in the event that they see a dog bite?
5 If they see an incident involving one of the
6 animals in the store?

7 A. It's a see something, say something. They're
8 required to go to their manager and let them know
9 what they had seen. And, you know, the manager
10 then would, you know, take that information down
11 and retain it if needed.

12 Q. Okay. So let's just say, for instance, I'm
13 working at the paint counter and I see a dog in
14 the store with an owner, on a leash, and I see
15 that dog bite a fellow employee or I see it bite a
16 patron, whatever the case may be. My first move
17 is to call the store manager or get somebody in
18 management or am I --

19 A. Their direct supervisor generally, yeah.

20 Q. Okay. I'm not to talk to the gentleman with the
21 dog and ask him to leave the store?

22 A. Generally, they want -- the care is for whoever is
23 injured. I mean, that's usually the priority.

24 Q. Okay.

25 A. Is to make sure if there is somebody injured,

1 whatever the safety incident is.

2 Q. So if it's witnessed by one of the Lowe's
3 employees, we're obviously -- the Lowe's employee
4 is going to, you would assume, contact direct
5 supervision and obviously make sure that the
6 person who has been bit by the dog doesn't need
7 medical attention?

8 A. Correct.

9 Q. Okay. What about the person who's got the dog?
10 Is that person addressed at all?

11 A. Generally all parties that were involved in it, we
12 would want to ask for their pertinent information.

13 Q. Okay. And so you would at that moment in time,
14 you would try to identify --

15 A. Correct. If the scenario came up where there was
16 a dog bite and it was reported immediately to the
17 management, whether an employee witnessed it or
18 not, we would do our best to gather the
19 information from the party that was bitten as well
20 as the owner of the dog. If it was reported at
21 that time. And it's regardless, that's the same
22 scenario for any incident that would happen.

23 Q. Sure.

24 A. So we would do our best to get as much information
25 about the incident as possible.

1 Q. Okay. So can you give me an example of any of
2 this in live action? I mean, you indicated, you
3 know, I think we talked about the last three years
4 I think was how we termed it, there hadn't been
5 another dog bite incident in the Brimfield
6 location. But you also indicated you're working
7 over five stores at this point. Have you ever
8 been involved in a dog bite incident or seen one
9 as it happened while you were in a Lowe's store?

10 A. This is the first and only one that I've dealt
11 with.

12 Q. In any way?

13 A. In any way, in any of the five stores that I've
14 been in.

15 Q. Okay. What about in conversations with fellow
16 employees at these various locations? I mean,
17 have you had anybody tell you of other incidents?

18 A. I've heard of an employee playing with a dog and
19 kind of got knocked over, you know.

20 Q. Big dog?

21 A. Yeah, we -- in the Stow store there's a dog, and
22 it should be a horse, it should have a saddle on
23 it, that's frequent and it's one of the best
24 demeanered dogs you'd ever meet.

25 Q. Sure.

1 A. But when it -- associates interact with him. You
2 know, he's a big dog. But that's pretty much the
3 extent of it. There's a possibility that I think
4 maybe one time I heard about an associate playing
5 with a dog that got maybe nipped, but it -- I'm
6 trying to remember to the best of my ability.

7 Q. No, I appreciate that.

8 A. It was no incident involved. There is no -- there
9 was no injury involved in it, you know, that kind
10 of thing.

11 Q. Okay. You've never experienced a situation where
12 an animal was involved in an incident at Lowe's
13 and seen the policy of that store change as a
14 result of that, right?

15 A. I have not seen that, no.

16 Q. Okay.

17 A. No. And I do remember on the date of the incident
18 that the pet policy was clearly displayed on every
19 entrance and exit door in the building.

20 Q. I mean, to your knowledge, that's probably the
21 case at all the stores?

22 A. I assume so, yes.

23 Q. Is that the -- is that the case in all five stores
24 that you go to?

25 A. To the best of my knowledge, yes.

1 Q. And your testimony was you believe that was the
2 case on the day in question at the Brimfield
3 location?

4 A. I was actually, as part of the video retention of
5 this, I actually went to the exits and entrances
6 of the store that time. And I believe you might
7 have still photos of those.

8 MR. RESETAR: The ones we can't read.

9 MR. EOFF: Yeah.

10 MR. RESETAR: I think that's what it is.

11 THE WITNESS: I'm sorry.

12 MR. RESETAR: No, it's not your fault.

13 MR. EOFF: No, no, it's not your fault,
14 but I suspect I probably have it.

15 THE WITNESS: That's actually the photo I
16 was talking about. (Indicating.)

17 MR. RESETAR: See, I really did turn
18 everything over.

19 MR. EOFF: For what it's worth, I haven't
20 questioned that. I believe that. Let's go
21 off the record for a second.

22 (Discussion off the record.)

23 MR. EOFF: Let's go back on the record.

24 BY MR. EOFF:

25 Q. Ray, I appreciate your time here today. I do

1 appreciate the time that you took to research the
2 point-of-sale information and its availability and
3 whether or not you'd be able to help us identify
4 the dog owner. I appreciate you coming here today
5 to answer my questions. I know spending time
6 being asked questions by a lawyer is not the, you
7 know, most exciting thing in the world to do, but
8 you've been very informative and I've appreciated
9 your time today.

10 I'm going to conclude my deposition of
11 you at this time. Mr. Resetar probably has a
12 couple things that he needs to say before we close
13 the record.

14 MR. RESETAR: Ray, you have the right to
15 read your deposition to ensure its accuracy.
16 You can't -- you're not -- you don't get to
17 change what you said, it's just to make sure
18 that everything you said was transcribed
19 correctly. I have faith that it will be.

20 With that being said, it is your call if
21 you would like to read your transcript before
22 it's transcribed or you can waive that. My
23 advice to you in this case would be if you
24 would like to waive it, I think it would be
25 okay. But it's your choice.

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THE WITNESS: That's fine. I'll waive.

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(The deposition was concluded at 2:28 p.m.)

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